



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1064**

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1064-ABB-38 [v.6]

Page 1 of 3

Amends Title [YES]
Second Edition

Date _____, 2020

Senator _____

1 moves to amend the bill on page 1, line 4, by inserting the following immediately before the ".":

2
3 "AND TO AMEND THE RULES OF CIVIL PROCEDURE AND THE CRIMINAL
4 PROCEDURE ACT CONCERNING THE GRANTING OF CONTINUANCES FOR
5 GOOD CAUSE ON ACCOUNT OF SERVICE ON A STATE BOARD, COMMISSION,
6 OR AUTHORITY AS AN APPOINTEE OF THE GOVERNOR, LIEUTENANT
7 GOVERNOR, OR GENERAL ASSEMBLY.";

8
9 and on page 1, line 6, by deleting the phrase "SECTION 1." and substituting the phrase
10 "SECTION 1.(a).";

11
12
13 and on page 3, line 8, by deleting the phrase "SECTION 2." and substituting the phrase
14 "SECTION 1.(b).";

15
16
17 and on page 3, line 35, by deleting the phrase "SECTION 3." and substituting the phrase
18 "SECTION 1.(c).";

19
20
21 and on page 4, line 22, by deleting the phrase "SECTION 4. This act" and substituting the phrase
22 "SECTION 1.(d). This section";

23
24
25 and on page 4, line 23, by inserting immediately after that line the following:

26
27 "SECTION 2.(a). G.S. 1A-1, Rule 40 of the Rules of Civil Procedure reads as
28 rewritten:

29 **"Rule 40. Assignment of cases for trial; continuances.**

30 (a) The senior resident superior court judge of any superior court district or set of districts
31 as defined in G.S. 7A-41.1 may provide by rule for the calendaring of actions for trial in the
32 superior court division of the various counties within ~~his~~ that senior resident's district or set of



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1 districts. Calendaring of actions for trial in the district court shall be in accordance with
2 G.S. 7A-146. Precedence shall be given to actions entitled thereto by any statute of this State.

3 (b) No continuance shall be granted except upon application to the court. A continuance
4 may be granted only for good cause shown and upon such terms and conditions as justice may
5 require. Good cause for granting a continuance shall include those instances when a party to the
6 proceeding, a witness, or counsel of record has an obligation of service to the State of North
7 Carolina, including ~~service~~any service in carrying out any duties as a member of the General
8 ~~Assembly or Assembly, or service on the Rules Review Commission.~~Commission or any other
9 board, commission, or authority as an appointee of the Governor, the Lieutenant Governor, or
10 the General Assembly."

11 **SECTION 2.(b).** G.S. 15A-952 reads as rewritten:

12 "**§ 15A-952. Pretrial motions; time for filing; sanction for failure to file; motion hearing**
13 **date.**

14 ...

15 (g) In superior or district court, the judge shall consider at least the following factors in
16 determining whether to grant a continuance:

- 17 (1) Whether the failure to grant a continuance would be likely to result in a
18 miscarriage of justice;
- 19 (2) Whether the case taken as a whole is so unusual and so complex, due to the
20 number of defendants or the nature of the prosecution or otherwise, that more
21 time is needed for adequate preparation; and
- 22 (3) Whether the case involves physical or sexual child abuse when a victim or
23 witness is under 16 years of age, and whether further delay would have an
24 adverse impact on the well-being of the child.
- 25 (4) Good cause for granting a continuance shall include those instances when the
26 defendant, a witness, or counsel of record has an obligation of service to the
27 State of North Carolina, including ~~service~~any service in carrying out any
28 duties as a member of the General ~~Assembly or~~Assembly, or service on the
29 Rules Review Commission.Commission or any other board, commission, or
30 authority as an appointee of the Governor, the Lieutenant Governor, or the
31 General Assembly."

32 **SECTION 2.(c).** This section becomes effective December 1, 2020.

33 **SECTION 3.** Except as otherwise provided, this act becomes effective when it
34 becomes law.";

35
36 and by repealing any duplicative sections containing identical effective date clauses in the bill.
37

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SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____